

COVER SHEET Civil Case Filing Form (To be completed by Attorney/Party Prior to Filing of Pleading)		Court Identification Docket #		Case Year	Docket Number
		37	01	2019	00028
		County #	Judicial District (CH, CI, CO)	Local Docket ID	
		01	15	19	
		Month	Date	Year	
		This area to be completed by clerk			
Mississippi Supreme Court Administrative Office of Courts		Form AOC/01 (Rev 2016)		Case Number if filed prior to 1/1/94	
In the CIRCUIT		Court of PIKE		County	Judicial District
Origin of Suit (Place an "X" in one box only) <input checked="" type="checkbox"/> Initial Filing <input type="checkbox"/> Reinstated <input type="checkbox"/> Foreign Judgment Enrolled <input type="checkbox"/> Transfer from Other court <input type="checkbox"/> Other <input type="checkbox"/> Remanded <input type="checkbox"/> Reopened <input type="checkbox"/> Joining Suit/Action <input type="checkbox"/> Appeal					
Plaintiff - Party Initially Bringing Suit Should Be Entered First - Enter Additional Plaintiffs on Separate Form					
Individual	DEBRA	SKELLEY		IZETT	L
	Last Name	First Name		Maiden Name, if applicable	M.I. Jr/Sr/III/IV
<input type="checkbox"/> Check (x) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: Estate of _____ <input type="checkbox"/> Check (x) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: D/B/A or Agency _____					
Business					
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated					
<input type="checkbox"/> Check (x) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: D/B/A _____					
Address of Plaintiff _____					
Attorney (Name & Address) Ronald L. Whittington, P.O. Box 1919, MoComb, MS 39649-1919					MS Bar No. 7173
<input type="checkbox"/> Check (x) if Individual Filing Initial Pleading is NOT an attorney Signature of Individual Filing: <i>[Signature]</i>					
Defendant - Name of Defendant - Enter Additional Defendants on Separate Form					
Individual	GUNTHER	SHANE			
	Last Name	First Name		Maiden Name, if applicable	M.I. Jr/Sr/III/IV
<input type="checkbox"/> Check (x) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: Estate of _____ <input type="checkbox"/> Check (x) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: D/B/A or Agency _____					
Business					
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated					
<input type="checkbox"/> Check (x) if Business Defendant is acting in the name of an entity other than the above, and enter below: D/B/A _____					
Attorney (Name & Address) - If Known 512 Sheridan Road, Bremerton, WA 98310-2624.					MS Bar No.
<input type="checkbox"/> Check (x) if child support is contemplated as an issue in this suit.* *If checked, please submit completed Child Support Information Sheet with this Cover Sheet					
Nature of Suit (Place an "X" in one box only)					
Domestic Relations		Business/Commercial		Children/Minors - Non-Domestic	
<input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce: Fault <input type="checkbox"/> Divorce: Irreconcilable Diff. <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Term. of Parental Rights-Chancery <input type="checkbox"/> UIFSA (eff 7/1/97; formerly URESA) <input type="checkbox"/> Other _____		<input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Business Dissolution <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Replevin <input type="checkbox"/> Other _____		<input type="checkbox"/> Adoption - Contested <input type="checkbox"/> Adoption - Uncontested <input type="checkbox"/> Consent to Abortion <input type="checkbox"/> Minor Removal of Minority <input type="checkbox"/> Other _____	
Appeals		Probate		Civil Rights	
<input type="checkbox"/> Administrative Agency <input type="checkbox"/> County Court <input type="checkbox"/> Hardship Petition (Driver License) <input type="checkbox"/> Justice Court <input type="checkbox"/> MS Dept Employment Security <input type="checkbox"/> Municipal Court <input type="checkbox"/> Other _____		<input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Mental Health Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Alcohol/Drug Commitment (voluntary)		<input type="checkbox"/> Elections <input type="checkbox"/> Expungement <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Post Conviction Relief/Prisoner <input type="checkbox"/> Other _____	
				Contract	
				<input type="checkbox"/> Breach of Contract <input type="checkbox"/> Installment Contract <input type="checkbox"/> Insurance <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other _____	
				Statutes/Rules	
				<input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Other _____	
				Real Property	
				<input type="checkbox"/> Adverse Possession <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Eviction <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Lien Assertion <input type="checkbox"/> Partition <input type="checkbox"/> Tax Sale: Confirm/Cancel <input type="checkbox"/> Title Boundary or Easement <input type="checkbox"/> Other _____	
				Torts	
				<input type="checkbox"/> Bad Faith <input type="checkbox"/> Fraud <input type="checkbox"/> Intentional Tort <input type="checkbox"/> Loss of Consortium <input type="checkbox"/> Malpractice - Legal <input type="checkbox"/> Malpractice - Medical <input type="checkbox"/> Mass Tort <input type="checkbox"/> Negligence - General <input type="checkbox"/> Negligence - Motor Vehicle <input type="checkbox"/> Product Liability <input type="checkbox"/> Subrogation <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Other _____	

EXHIBIT

tabbies

A

WHITTINGTON LAW FIRM, PC
ATTORNEY AT LAW
229 MAIN STREET
MCCOMB, MISSISSIPPI 39648

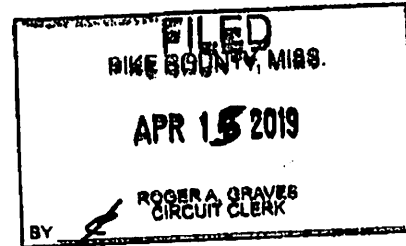
MAILING ADDRESS
POST OFFICE DRAWER 1919
MCCOMB, MS 39649-1919

TELEPHONE: 601/684-8888
FACSIMILE: 601/684-9709

April 15, 2019

Via Hand Delivery

Hon. Roger Graves
Pike County Circuit Court Clerk
175 South Cherry Street
Magnolia, MS 39652



Re: *In the Matter of the Estate of Donald Lee Izzett, Jr, deceased, by and through the Administratrix of the Estate Honorable Becky Buie, Chancery Clerk of Pike County, Mississippi; In the Circuit Court of Pike County, Mississippi; Cause No. _____.*

Dear Mr. Graves:

Enclosed please find a civil cover sheet, a complaint, a copy of the same and a check representing the filing fee in the referenced matter. Please mark the copy "file" stamped and return to me

Thank you in advance for your attention in this matter. If you should have any questions, please do not hesitate to contact me.

With kind regards, I remain,

Sincerely,

Danette Hill, Secretary for
Ronald L. Whittington

Enclosures/

IN THE CIRCUIT COURT OF PIKE COUNTY, MISSISSIPPI
PIKE COUNTY, MISS.

IN THE MATTER OF THE ESTATE OF
DONALD LEE IZZETT, JR., DECEASED,
BY AND THROUGH THE ADMINISTRATRIX
OF THE ESTATE HONORABLE BECKY BUIE
CHANCERY CLERK OF PIKE COUNTY, MISSISSIPPI

APR 15 2019

ROGER A. GRAVES
CHANCERY CLERK

PLAINTIFF

VS.

CAUSE NO. 19-028-PCS

SHANE GUNTHER

DEFENDANT

COMPLAINT

COMES NOW, the plaintiff, Honorable Becky Buie for and on behalf of the estate of Donald Lee Izzett, Jr., deceased and files this complaint against Shane Gunther for the wrongful death of Donald J. Izzett, Jr., and in support thereof would show the following fact, to wit:

1. The Estate of Donald Lee Izzett, Jr., is a probate matter pending in the Chancery Court of Pike County, Mississippi, civil action no. 2019-57-WS. Honorable Becky Buie, Chancery Clerk of Pike County, Mississippi is the duly appointed, qualified and serving administratrix of said estate.

By judgment of the Chancery Court of Pike County, Mississippi the plaintiff Becky Buie was authorized to pursue a wrongful death claim against the defendant herein, Shane Gunther and, Donald Lee Izzett, Jr., pursuant to said judgment, was adjudicated to be deceased said judgment being entered on the 1st day of April, 2019, and a true and correct copy of same being attached hereto as exhibit "A".

2. The defendant, Shane Gunther, is an adult nonresident citizen of the State of Mississippi and may be served with process of this Court at his residence address, 512 Sheridan Road, Bremerton, WA 98310-2624.

3. The defendant has committed a tort, in whole or in part in the State of

Mississippi and therefore is amenable to process of this court; is subject to the jurisdiction of this Court; and this court has jurisdiction of the parties and subject matter herein.

4. The decedent, Donald Lee Izzett, Jr., was an adult resident present in, Pike County, Mississippi on or about May 25, 1995, and thereafter he was never seen alive. Donald Lee Izzett, Jr., is survived by his heir-at-law and wrongful death beneficiaries, namely; Donald Lee Izzett, Sr., natural father and Debra Izzett Skelley, natural mother.

4. On or about May 25, 1995, while in the presence of and accompanied by the defendant, Shane Gunther, an altercation occurred between the two individuals and the deceased, Donald Lee Izzett, Jr., was a victim of a homicide perpetrated by the defendant, Shane Gunther.

5. The actions of Shane Gunther and his conduct by and toward Donald Lee Izzett, Jr., resulted in his death and same was caused by the negligence and/or intentional misconduct of the defendant for which he is liable.

6. As a direct and proximate result of the aforementioned conduct, negligence and intentional misconduct of the defendant Shane Gunther, Donald Lee Izzett, Jr., sustained serious bodily injuries and as a result of those injuries he died on or about May 25, 1995, after having suffered great physical and mental pain and for which defendant is liable unto the plaintiff's estate for and on behalf of the wrongful death beneficiaries of Donald Lee Izzett, Jr., deceased. Said wrongful death beneficiaries are Donald Lee Izzett, Sr., and Debra Izzett Skelley.

7. Donald Lee Izzett, Jr., deceased was an able bodied man, of nineteen (19) years of age whose death has deprived the wrongful death beneficiaries of his support, companionship, love and affection.

8. The wrongful death beneficiaries have been denied the present net cash value

of the decedent's life expectancy at the time of his death.

9. The plaintiff would further show that the wrongful death beneficiaries have been deprived of the hedonic value of the decedent's life expectancy and plaintiff demands judgment of and from the defendant in an amount in excess of the jurisdictional minimum limits of this Court to compensate them for their actual damages and loss.

COUNT II

12. The plaintiff incorporates herein by referenced the jurisdictional allegations set forth hereinabove together with all allegations in the subsequent paragraphs of Count I. The plaintiff would show that the acts of the defendant were tantamount, willful, intentional and maliciously done and/or his negligence was so gross as to be tantamount to intentional wrong doing and for which the defendant is liable for punitive damages and demand is made for same.

WHEREFORE, PREMISES CONSIDERED, the plaintiff demands judgment of and from the defendant in excess of one million (\$1,000,000.00) dollars in actual damages, one million (\$1,000,000.00) dollars in hedonic damages and five million (\$5,000,000.00) dollars in punitive damages. The plaintiff further demands judgment of this Court to include prejudgment interest and post judgment interest of and from the defendant, Shane Gunther, together with all cost incurred herein.

Respectfully submitted,

Becky Buie, Administratrix of the Estate
of Donald Lee Izzett, Jr.,

By: 

RONALD L. WHITTINGTON

By: 

WILLIAM E. GOODWIN

RONALD L. WHITTINGTON
WHITTINGTON LAW FIRM
229 Main Street (39648)
P.O. Drawer 1919
McComb, MS 39649-1919
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IN THE CHANCERY COURT OF PIKE COUNTY, MISSISSIPPI

IN THE MATTER OF THE ESTATE OF
DONALD LEE IZZETT, JR.

CAUSE NO.: 2019-0057-WS

ORDER DECLARING DONALD LEE IZZETT, JR. DECEASED

ORDER OPENING ESTATE AND FOR LETTERS OF ADMINISTRATION
AND APPOINTING THE HON. BECKY BUIE ADMINISTRATRIX OF SAID ESTATE

ORDER DETERMINING UNKNOWN HEIRS AT LAW OF DONALD LEE IZZETT, JR.

ORDER AUTHORIZING FILING OF WRONGFUL DEATH ACTION

THIS CAUSE, having come on Petition of Debra Izzett Skelley and Becky Buie, to Open the Estate of Donald Lee Izzett and For Letters of Administration and the Court being duly advised of the premises does hereby find as follows, to wit:

1. Petitioner, Debra Izzett Skelley, is an adult resident citizen of Allegany County, Cumberland, Maryland, and is the natural mother of Donald Lee Izzett, Jr., who is believed to have died intestate on or about May 25, 1995, in Pike County, Mississippi. Pursuant to the provisions of section 91-7-63 of the Mississippi Code of 1972 Annotated as amended the petitioner would show that the decedent, Donald Lee Izzett, Jr., did not at said time have a fixed place of residence and that jurisdiction and venue is therefore appropriate in this forum, and left surviving him his natural mother Debra Izzett Skelley and his natural father Donald Lee Izzett, Sr.

2. That the Petitioner, Debra Izzett Skelley, has shown that she is joined in this petition by the Honorable Becky Bule, Chancery Clerk of Pike County, Mississippi the duly elected,



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qualified, sworn and serving Chancery Clerk of Pike County, Mississippi who is willing, able and qualified to serve, if appropriate, as an administratrix of the estate in this cause.

3. That the petitioner has shown that pursuant to the provisions of section 13-1-23 of the Mississippi Code of 1972 Annotated that Donald Lee Izzett Jr., for more than seven (7) years successively as contemplated within the terms and provisions of said statute as one having remained beyond the sea, has absented himself from this state, or has concealed himself in this state for seven (7) years consecutively without being heard of and should be presumed to be dead in any case where his death shall come in question and petitioner would show that there is no proof to be made that he was alive within that time. Petitioner has shown that Petitioner would specifically show that the decedent, her natural son, has not been heard of since on or about May 25, 1995, at which time he was last seen in and known to be in Pike County, Mississippi.

4. That the Petitioner has shown that the Honorable Becky Buie, should be appointed as the administratrix of the estate of Donald Lee Izzett, Jr., to serve without the necessity of bond other than her bond posted in her official capacity as Chancery Clerk of Pike County, Mississippi. Petitioner would show that because there are no assets other than a claim for the wrongful death of Donald Lee Izzett, Jr., further inventory and accounting should be waived pending further order of this Court.

5. That an estate should be immediately administered for the prompt protection and proper management thereof and for the prompt collection of the assets; and

6. That it is in the best interest of the estate that petitioner, Becky Buie, be granted Letters of Administration upon the estate of the decedent, and

7. That all known heirs at law have joined in the petition to open the estate.

DETERMINATION OF HEIRS AT LAW

9. That the Petitioner has shown that at the time of his death, the decedent had no assets that would accrue to the benefit of the estate of Donald Lee Izzett, Jr., except for the unliquidated claim for the wrongful death of Donald Lee Izzett, Jr., said death having occurred in Pike County, Mississippi.

10. That the Petitioners would show that the known heirs at law of Donald Lee Izzett, Jr., are his natural mother the petitioner, Debra Izzett Skelley and the decedent's natural father, Donald Lee Izzett, Sr. Petitioner has shown that process was issued for said unknown heirs at law of the decedent and further that process issue for any and all unknown heirs at law of Donald Lee Izzett, Jr., returnable to April 1, 2019 before this Honorable Court to then and there appear and show cause, if any such unknown person can, why the heirs at law should not be determined to be Debra Izzett Skelley and Donald Lee Izzett, Sr. Said Notice was published in the McComb Enterprise Journal on February 19th and 26th, 2019 and March 5, 2019.

AUTHORIZATION TO FILE WRONGFUL DEATH ACTION

11. Further the Honorable Becky Bule, as administratrix of the estate is authorized and directed to make such inquiry and determination into the liability of, and the appropriateness for, the filing of a wrongful death action against such party or parties as may be responsible for and a proximate cause of the wrongful death of Donald Lee Izzett, Jr., in a court of competent jurisdiction to include but not be limited to in the Circuit Court of Pike County, Mississippi. The petitioner, Debra Izzett Skelley would show that a contingent fee contract has been executed to protect the claim for the wrongful death of her natural son, if same can be proved, and that Whittington Law Firm and the law firm of William E. Goodwin, Attorney At Law, PLLC should be authorized as counsel for Debra Izzett Skelley and the estate of Donald Lee Izzett, Jr., to pursue

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said claim, investigate same and prosecute same as facts direct appropriate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Honorable Becky Buie, Chancery Clerk of Pike County, Mississippi the duly elected, qualified, sworn and serving Chancery Clerk of Pike County, Mississippi authorised and appointed administratrix of the estate in this cause and the court further authorizes said estate to be opened and administered in accordance with the laws of the State of Mississippi and Rule and orders of this court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the petitioner has shown that pursuant to the provisions of section 13-1-23 of the Mississippi Code of 1972 Annotated that Donald Lee Izzett Jr., for more than seven (7) years successively as contemplated within the terms and provisions of said statute as one having remained beyond the sea, has absented himself from this state, or has concealed himself in this state for seven (7) years consecutively without being heard of, should be presumed to be dead. Based on the evidence and testimony the court finds that in any case where his death shall come in question and petitioner would show that there is no proof to be made that he was alive within that time. It is appropriate that a judicial determination and judgment be entered by this Honorable Court determining and adjudicating that Donald Lee Izzett, Jr., is deceased, it is so Ordered that Donald Lee Izzett, Jr. is deceased.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Petitioners would show that the known heirs at law of Donald Lee Izzett, Jr., are his natural mother, the petitioner, Debra Izzett Skelley and the decedent's natural father, Donald Lee Izzett, Sr.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Honorable Becky Buie, as administratrix of the estate should be authorized and directed to make such inquiry and determination into the liability of, and the appropriateness for, the filing of a wrongful death action against such party or parties as may be responsible for and a proximate cause of the

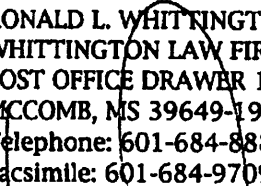
Case: 57CH1:19-pr-00057-WS Document #: 8 Filed: 04/01/2019 Page 5 of 5

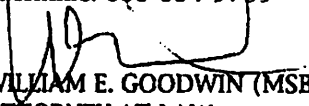
wrongful death of Donald Lee Izzett, Jr., in a court of competent jurisdiction to include but not be limited to the Circuit Court of Pike County, Mississippi. The petitioner, Debra Izzett Skelley would show that a contingent fee contract has been executed to protect the claim for the wrongful death of her natural son, if same can be proved, and that Whittington Law Firm and the law firm of William E. Goodwin, PLLC should be authorized as counsel for Debra Izzett Skelley and the estate of Donald Lee Izzett, Jr., to pursue said claim, investigate same and prosecute same as facts direct appropriate.

THUS ORDERED, ADJUDGED AND DECREED on this the 15th day of April, 2019.


CHANCELLOR

PREPARED AND PRESENTED BY:


RONALD L. WHITTINGTON
WHITTINGTON LAW FIRM, PC
POST OFFICE DRAWER 1919
MCCOMB, MS 39649-1919
Telephone: 601-684-8888
Facsimile: 601-684-9709


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ATTORNEY AT LAW
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IN THE CIRCUIT COURT OF PIKE COUNTY, MISSISSIPPI

IN THE MATTER OF THE ESTATE OF
DONALD LEE IZZETT, JR., DECEASED
BY AND THROUGH THE ADMINISTRATRIX
OF THE ESTATE HONORABLE BECKY BUIE
CHANCERY CLERK OF PIKE COUNTY, MISSISSIPPI

PLAINTIFF

VS.

CAUSE NO. 19-028-PCS

SHANE GUNTHER

DEFENDANT

SUMMONS

THE STATE OF MISSISSIPPI

TO: MR. SHANE GUNTHER, 512 SHERIDAN ROAD, BREMERTON, WA, 98310-2624

NOTICE TO DEFENDANT

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

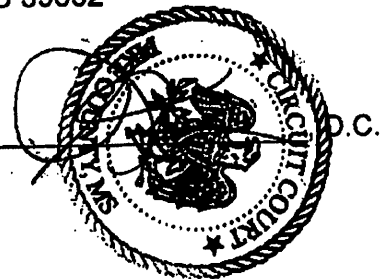
You are required to mail or hand deliver a copy of a written response to the Complaint to RONALD L. WHITTINGTON, attorney for Plaintiff, at Whittington Law Firm, P.O. Drawer 1919, McComb, MS 39649-1919. Your response must be mailed or delivered within (30) days from the date of delivery of this Summons and Complaint or a Judgment by Default will be entered against you for the money or other things demanded in the Complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 15 day of April, 2019.

ROGER GRAVES, Circuit Clerk
175 SOUTH CHERRY STREET
MAGNOLIA, MS 39652

BY: _____



(SEAL)